



6-20-07

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Marin

Serial No.: 10/751,243

Confirmation No.: 3854

Filed: January 2, 2004

For: Catalyst Components and their use  
in the Polymerization of Olefins

§ Atty. Dkt. No.: COS-971

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§ Group Art Unit: 1713

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§ Cust. No.: 25264

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§ Examiner: Lu

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Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Honorable Commissioner:

CERTIFICATE OF MAILING

37 CFR 1.10

I hereby certify that this correspondence is being deposited on the date below with the United States Postal Service as Express Mail, Mailing Label No. EQ 190571911 US, in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

6/19/2007  
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REPLY BRIEF

Appellants submit this Reply Brief to the Board of Patent Appeals and Interferences in response to the Examiner's Answer dated April 30, 2007.

Status of Amendments

Appellants disagree that the Appellant's statement of the status of amendments after final rejection contained in the brief is incorrect. As stated in the Appeal Brief, Appellant's recognize that the Examiner refused to enter amendments in Response to the Final Office Action. However, Appellant's stated the circumstances of such amendments and Appellant's disagreement with the refusal to enter such.

## Response to Arguments

### **I. THE EXAMINER ERRED IN REJECTING CLAIM 10 AND 12 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY *KAUFFMAN* BECAUSE *KAUFFMAN* DOES NOT SHOW A COMPOUND WHEREIN A IS A CYCLOPENTADIENYL GROUP**

The Examiner states that “1,1,2,2-tetraethyldisalanediyl[2-methyl-indenyl(4-phenylfluorenyl)]zirconium dichloride of *Kaufmann* meets the limitation of the instant claims 10 and 12”. *See*, Examiner’s Answer at page 3, section 9. Appellants disagree that such compound meets the limitations of pending claims 10 and 12. Claim 1 (not argued in the instant appeal) recites that A is a substituted or an unsubstituted cyclopentadienyl group, a substituted or unsubstituted indenyl group, or a heteroorgano group XR. However, claim 10 recites that A is a substituted or unsubstituted cyclopentadienyl group. The compound recited in Kaufmann recites an A group that is an indenyl substituted at the 2 position. Appellant’s submit that Claim 10 disavows an A group including indenyl.

Appellants distinguished claim *Kauffman* from the claim 10 in the above discussion and feel that repeating such arguments is unnecessary as claim 12 is dependent upon claim 10. Therefore, reversal of the rejection of claims 10 and 12 are respectfully requested.

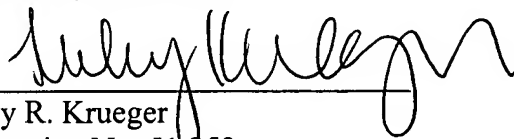
### **II. THE EXAMINER ERRED IN REJECTING CLAIM 10 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY *SCHERTL***

The Examiner states that “1,2-bis(4-benzyl-fluorenyl)ethane zirconium dichloride of *Schertl* meets the limitation of the instant claim 10”. *See*, Examiner’s Answer at page 3, section 9. Appellants disagree that such compound meets the limitations of pending claim 10. The A group of such formula (4-benzyl) is not a cyclopentadienyl group, as recited in the pending claim 10. Appellants further submit that the compound of *Schertl* does not teach a compound having a fluorenyl substituted at one of the 4 or 5 positions. Rather, *Schertl* teaches an unsubstituted phenyl group. Therefore, Appellants respectfully request reversal of the rejection of claim 10.

### Conclusion

In conclusion, the references of record do not teach, show or suggest a compound wherein A is a cyclopentadienyl group, as recited in pending claim 10. Thus, Appellants respectfully request reversal of the rejection of claims 10 and 12.

Respectfully submitted,



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